

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 270 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME TAX

Versus

GUJARAT BOTTLING CO PVT LTD

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Appearance:

MR MANISH R BHATT for Petitioner

MR KH KAJI for Respondent No. 1

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CORAM : MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

Date of decision: 13/02/98

ORAL JUDGEMENT

The following question is referred to this Court for its opinion under section 256(1) of the Income-tax Act, 1961 at the instance of Revenue.

Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in coming to the conclusion that containers consisting of the bottles and crates were "plant" within the meaning of section 43(3) of the Income-tax Act, 1961 ?

2. The question whether the bottles and crates i.e. containers used by the assessee who was doing the business of manufacturing and selling soft drinks were eligible for depreciation allowance under section 32 (1)(ii) of the said Act has been decided by us today in ITR No. 206 of 1985. We have taken the view that bottles and shells (crates) of the assessee which were used for his business were plant and therefore, the assessee could claim depreciation under section 32(1)(ii) of the said Act. Since the facts and the point involved are same, we do not reproduce the facts of this case from its record. Following our decision in ITR No. 206 of 1985, we hold that the Tribunal was right in coming to the conclusion that the containers consisting of bottles and crates were plant under the relevant provisions of Income-tax Act, 1961. The question referred to us is therefore, answered in the affirmative, in favour of the assessee and against Revenue. The Reference stands disposed of accordingly with no order as to costs.

(R.K.Abichandani,J)

(Kundan Singh,J)

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